

**REMARKS**

Prior to substantive examination of the claims, Applicants seek to amend claim 17 such that a typographic error may be corrected. The amendment finds support, *e.g.*, on page 14, lines 10-12, of the specification and introduces no new matter.

In response to the Restriction Requirement mailed October 10, 2006, Applicants elect Group I, claims 1-17, drawn to a vector for the expression of immunoglobulin-cytokine fusion proteins in malignant B cells, for further prosecution. Applicants further elect the species of a non-functional C $\mu$  enhancer, a marker gene containing a non-functional enhancer region, mouse, all the C-domains of a secretory antibody, GM-CSF, and gpt. The election is made with traverse.

Basis for restriction practice is illustrated in 35 U.S.C. §121, "[i]f two or more independent and distinct inventions are claimed in one application, the Director [of the Patent and Trademark Office] may require the application to be restricted to one of the inventions." The meaning of "independent" and "distinct" is further provided by MPEP §802.01: the term "independent" means that there is no disclosed relationship between the two or more subjects disclosed; the term "distinct" means that two or more subjects as disclosed are related, for example, as combination and part thereof, process, and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed.

The present application relates to a novel vector that is useful for the expression of immunoglobulin-cytokine fusion proteins in malignant B cells. The disclosure of this vector allows the recombinant production of immunoglobulin-cytokine fusion proteins in malignant B cells. The subject matter of the Restriction Requirement, *i.e.*, that of the claims of Groups I and II, are closely related, as the claimed use (or method) of Group II requires the vector defined by the claims of Group I. Thus, the subject matter upon which the Restriction Requirement is imposed are not "independent" under 35 U.S.C. §121 according to the MPEP's definition.

Nor are the subjects "distinct" under 35 U.S.C. §121 according to the MPEP's definition. Because the claimed use or method of Group II relies on the vector of Group I, they cannot be separated from each other when the claimed use or method is practiced.

Because of the common inventive concept and the close relation between the subject matter of Groups I and II, the examination of these two Groups together would not impose any additional, unreasonable burden on the Examiner. Applicants respectfully submit that the restriction requirement is improper and request that the Examiner reconsider and withdraw the requirement.

If the Restriction Requirement is maintained, Applicants note that, once the claims of Group I are found allowable, the use or method claims of Group II are entitled to a rejoinder in accordance with MPEP §821.04(b).

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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